

FILED

Jan 03 - 2024

John M. Domurad, Clerk

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF NEW YORK
SYRACUSE DIVISION**

SCOTT PHILLIP LEWIS,
Plaintiff,

v.

**Onondaga County, NY; Village of
Solvay
*Defendant.***

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Jury Trial Demanded

Case No.: 8:24-CV-0013 (GTS/DJS)

PLAINTIFF'S ORIGINAL COMPLAINT

NOW COMES PLAINTIFF, Scott Phillip Lewis, and files Plaintiff's Original Complaint.

Plaintiff files 42 U.S.C § 1983 lawsuit for cause of action will show the following:

I. PARTIES

1. Plaintiff is Scott Phillip Lewis ("Plaintiff"), an individual and citizen of the United States of America.
2. Defendant #1 is Onondaga County, NY ("County Defendant") is a county in the State of New York and can be served through Emily Essi, Onondaga County Clerk, at 401 Montgomery St., Syracuse, NY. Service is requested contemporaneously with the filing of this complaint.
3. Defendant #2 is the Village of Solvay ("Village Defendant") is a village located in Onondaga County, New York and can be served through its mayor, Derek Baichi, at 1100 Woods Rd., Solvay, NY. Service is requested contemporaneously with the filing of this complaint.

II. JURISDICTION AND VENUE

4. The court has jurisdiction over this lawsuit according to 28 U.S.C § 1331. The court has personal jurisdiction over Onondaga County, NY and the Village of Solvay. because it is a New York county and village, respectively.

5. Venue is proper in the Syracuse Division of the United States District Court for the Northern District of New York, under 28 U.S.C § 1391(b). Onondaga County, NY and Village of Solvay are situated in this district and a substantial part of the events or omissions giving rise to claims in this lawsuit occurred within this judicial district.

III. FACTUAL ALLEGATIONS

6. On December 29, 2021, Plaintiff was involved in a traffic stop initiated by Village of Solvay Officer Hunter Nerber (“Officer Nerber”).
7. Plaintiff was issued six (6) infractions namely an inspection violation, turn signal violation, safety glass violation, insurance violation, registration violation and aggravated unlicensed operator in the third degree (Exhibit A). Aggravated unlicensed operator is a misdemeanor in the State of New York while the other five (5) charges were traffic violations.
8. On January 20, 2022, the New York State Department of Motor Vehicles (“DMV”) issued a Restoration Notice Ordering that Plaintiff’s suspension of driving privileges had been rescinded effective December 29, 2021 (Exhibit B).
9. Plaintiff wished to exercise his Constitutional right to a jury trial for the charges brought by County Defendant and Village Defendant.
10. On or around April 20, 2022, Plaintiff hired Eileen Walsh (“Ms. Walsh”), an attorney believed to be admitted to the New York State Bar Association. Plaintiff voiced his desire to exercise his Constitutional rights on the onset of Ms. Walsh’s representation.
11. On or around June 6, 2022, Plaintiff was put in handcuffs in the Village of Lake Placid, New York and notified there was a warrant out for his arrest regarding the Village of Solvay court matters stemming from Plaintiff’s December 29, 2021 traffic stop.

12. On or around July 6, 2022, Ms. Walsh filed a Motion to Withdraw as attorney in the Village of Solvay Court after Plaintiff refused to accept a plea deal offered by Onondaga County District Attorney's Office.
13. The District Attorney of Onondaga County is William J. Fitzpatrick.
14. On or around July 14, 2022, Plaintiff elected to proceed *pro se*.
15. Ms. Walsh did not appear at Plaintiff's hearing regarding Ms. Walsh's withdrawal of representation.
16. Shortly thereafter, Plaintiff filed a Motion for Discovery with the Village of Solvay Court.
17. Plaintiff did not receive and has not received any relevant discovery to date from the Onondaga County District Attorney's Office.
18. On or around October 27, 2022, all charges were dismissed against Plaintiff.

IV. CLAIMS

19. "{M}unicipalities and other local government units [are] included among those persons to whom § 1983 applies." (*Monell v. Department of Social Services of City of New York*, 436 U.S. 3 658, 690 (1978)).
20. "It is the execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983." *Id* at 691.
21. "To state a claim under § 1983, a plaintiff must allege that defendants violated his federal rights while acting under color of state law." *Washington v. County of Rockland*, 373 F.3d 310, 315 (2d Cir. 2004).
22. "[A] municipality may not be held liable under [Section] 1983 for an injury inflicted by its agents unless 'the challenged acts were performed pursuant to a municipal policy or custom.'"

Vill. of Freeport v. Barrella. 814 F.3d 594, 616 (2d Cir. 2016) (quoting *Little!obn v. City of N.Y.*. 795 F.3d 297, 314 (2d Cir. 2015); see generally *Monell v. Dep't of Soc. Servs.*. 436 U.S. 658 (1978).

CLAIM I, § 1983, 4th Amendment Illegal Search and Seizure

Village Defendant

23. Plaintiff hereby incorporates all preceding paragraphs as if fully stated herein and alleges as follows.

24. The Fourth Amendment of the United States Constitution states in full:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

25. On December 29, 2021, Plaintiff’s vehicle was seized and impounded over the charges alleged by Officer Nerber.

26. Village Defendant has not provided any probable cause to seize Plaintiff’s vehicle at the time of the traffic stop.

27. Thus, Village Defendant violated Plaintiff’s Fourth Amendment right.

28. Plaintiff requests all relief and damages he may be entitled.

CLAIM II, § 1983, 4th Amendment Illegal Search and Seizure

County Defendant and Village Defendant

29. Plaintiff hereby incorporates all preceding paragraphs as if fully stated herein and alleges as follows.

30. On or around June 6, 2022, Plaintiff was placed in handcuffs regarding a Warrant issued by the Village of Solvay.

31. Plaintiff had hired an attorney to represent him in the Village of Solway matter prior to being placed in handcuffs.
32. The Onondaga County District Attorney's Office had offered a plea agreement to Plaintiff's representation, Ms. Walsh, prior to Plaintiff's illegal seizure in Lake Placid, New York.
33. There was no probable cause to have Plaintiff arrested or seized on June 6, 2023.
34. Thus, Defendant's Fourth Amendment rights have been violated by County Defendant and Village Defendant.
35. Plaintiff requests all relief and damages he may be entitled.

CLAIM III, § 1983, 6th Amendment Right to Speedy and Public Trial

County Defendant and Village Defendant

36. Plaintiff hereby incorporates all preceding paragraphs as if fully stated herein and alleges as follows.
37. The Sixth Amendment of the United States Constitution states in full that

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.
38. In New York State, Aggravated unlicensed operation of a motor vehicle in the third degree is a misdemeanor. When a person is convicted of this offense, a term of imprisonment of not more than thirty days is a possible sentence.
39. The right to a speedy and public trial is further outlined by New York State Criminal Procedure Law (“CPL”) 30.30.
40. Here, New York State CPL 30.30(1)(c) states the people must be ready for trial within:

“sixty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months.”

41. Therefore, Plaintiff’s right to a speedy and public trial was impeded.

42. Thus, Plaintiff’s Sixth Amendment rights have been violated.

43. Plaintiff requests all relief and damages he may be entitled.

V. DAMAGES

44. Plaintiff suffered and claims the following damages:

I. Actual Damages

- Past and future mental anguish
- Past and future loss of earning capacity
- Past and future physical suffering

VI. JURY DEMAND

45. Plaintiff respectfully requests jury trial pursuant to FED. R. CIV. P. 48

VII. PRAYER FOR RELIEF

46. Accordingly, Plaintiff requests that judgment be awarded against Essex County Defendant and Lake Placid Defendant for:

- (1) Compensatory damages;
- (2) Punitive or exemplary damages;
- (3) Costs of Court;
- (4) Prejudgment and postjudgment interest at the highest rate allowable under law;
- (5) Unliquidated damages at the highest amount that is within the jurisdictional limits of the court;
- (6) And all over relief to which Plaintiff is justly entitled.

Respectfully submitted,

/s/Scott Phillip Lewis

Scott Phillip Lewis

1936 Saranac Ave. #3, PMB 411

Lake Placid, NY 12946

518-551-3061

scottphillplewis@gmail.com

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EXHIBIT A

**Solvay Village Court
1100 Woods Road
Solvay, New York 13209**

Daniel F. Mathews, III
Village Justice

(315) 468-1608
(315) 468-1600

February 3, 2022

Scott P. Lewis
64 Mckinley St
Lake Placid, NY 12946

People of the State of New York versus:

Scott P. Lewis

Case No: 22010024

64 Mckinley St

DOB: [REDACTED] 1989

Lake Placid, NY 12946

| <u>TicketNo.</u> | <u>Officer</u> | <u>Statute/Section</u> | <u>Charge Text</u> |
|------------------|----------------|------------------------|--------------------|
| S303DZD596 | Nerber, Hunter | VTL 0306 B | NO INSP CERT |
| S303DZD61Z | Nerber, Hunter | VTL 0375 12A2 | NO SAFETY GLASS |
| S303DZD5V0 | Nerber, Hunter | VTL 0319 01U | INSURANCE VIOL |
| S303DZD63K | Nerber, Hunter | VTL 1163 0D | TURN SIGNAL VIO |
| S303DZD5WJ | Nerber, Hunter | VTL 0511 01A | AGG UNLIC OPER3 |
| S303DZD5XZ | Nerber, Hunter | VTL 0512 | OP VEH REG SUSP |

Next Date: 03/10/2022 Time: 04:00PM

Dear Sir or Madam:

The above matter, pending in Solvay Justice Court, has been adjourned to the date and time shown above.

Please note that Court will be held at the Town of Geddes courtroom at 1000 Woods Road, Solvay NY, 13209. All other correspondence including adjournments, payment of fines and questions should still be directed to Solvay Justice Court, 1100 Woods Road, Solvay, NY 13209 (468-1608).

NO ADJOURNMENTS WILL BE GIVEN ON THE DAY OF COURT.

Thank you for your cooperation in this matter.

Sincerely,

Court Clerk

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EXHIBIT B



Department of
Motor Vehicles

RESTORATION NOTICE

dmv.ny.gov

DATE ISSUED: 01/20/2022

LEWIS, SCOTT, PHILLIP
64 MCKINLEY ST
LAKE PLACID NY 12946

Effective date: 12/29/2021

| Identification No. | Date of Birth/Gender | Driver License No. | Plate No. & Type | Order No. |
|------------------------|----------------------|--------------------|------------------|-------------|
| L05838-24357-278009-89 | [REDACTED] 1989 M | 792067291 | KPE8376 -16-PAS | C2112160000 |

The Order shown above that suspended your driving privileges has been **rescinded**.

REASON: ACCEPTABLE PROOF RECEIVED

DMV will electronically confirm the validity of any paper proof of insurance with the insurance company.

To check the status of your NY driver license or registration, go to dmv.ny.gov/mydmv.

REGISTRANT: LEWIS, SCOTT, PHILLIP
64 MCKINLEY ST
LAKE PLACID NY 12946
INSURANCE CO: 703-PERM GENERAL ASSURANCE CO
CANCELLATION DATE: 10/01/2021
PLATE NO. & TYPE: KPE8376 -16-PAS
VIN: 1G2ZH58N874215596
YEAR & MAKE: 2007 PONTI
REG SUSP ORDER: C111151